

**Before the
Federal Communications Commission
Washington, D.C.**

_____)	
In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
Appeal of USAC Funding Denial)	FCC 04-200
_____)	

**WHITE SETTLEMENT INDEPENDENT SCHOOL DISTRICT
APPEAL OF E-RATE FUNDING DENIAL**

White Settlement Independent School District files this Appeal of a Denial of a Request for Funding by the Universal Service Administrative Company, Schools and Libraries Division (“SLD”), and in support thereof would respectfully show as follows:

REFERENCE DATA

FCDL DENIAL – JUNE 8, 2004
SLD DENIAL OF INTERNAL REVIEW – OCTOBER 12, 2004
Form 471 Application No.: 423543
Funding Year 2003: 07/01/2004 – 06/30/2005
Billed Entity No.: 140890
Billed Entity Name: White Settlement Independent School District
Funding Request Number: 1169376

**USAC IMPROPERLY FAILED TO CONSIDER NEW INFORMATION ON
APPEAL TO CLARIFY AN AMBIGUITY**

White Settlement Independent School District (“White Settlement”) applied for funding from the Schools and Libraries Division of the Universal Service Administrative Company (“SLD”) for the second year of its wireless Wide Area Network. The SLD denied the request for funding because it claimed White Settlement’s “Item 21 attachment” to the funding application (Form 471) was for “Internet Access Service,” which was inconsistent with the original solicitation for bids (Form 470) which was only

for “Telecommunications Service,” and therefore, the application was outside of the scope of the solicitation for bids.¹

What the SLD did not address is that the Form 471 was ambiguous on its face because it contained two differing descriptions of the services. The Form 471 states at Block 5, Section 11, that the services were “Telecommunications Service,” while at Block 5, Section 21, it states that the services were “Internet Access.” The application for funding is ambiguous on its face, but the SLD refused to accept White Settlement’s statements on appeal that its intent was to favor Block 5, Section 11 (“Telecommunications Service”). The SLD simply selected the one that resulted in denial and overlooked the one that would have resulted in approval.²

Under USAC appeal guidelines, new information may not be admitted on appeal to contradict earlier information, but it can be admitted to clarify an ambiguity in earlier information.³ In this case, White Settlement stated in its Appeal with the SLD that its intention was that its Form 471 should be construed to be for “Internet Access” in order to meet the required scope of the listed Form 470.⁴ That new information which would have settled the ambiguity was summarily disregarded.

The goal of the funding mechanism is that “[e]lementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services.”⁵ To summarily resolve an ambiguity in favor of denying such access when an equally valid resolution would result in approving such access is contrary to the goal of the fund.

¹ See attached USAC Appeal Denial Letter, Oct. 12, 2004, second section, which states in pertinent part, “According to information originally submitted as Item 21 attachment, this request is for [sic] for “Internet access services,” but the cited Form 470 (Application number 106390000480924) was only posted for Telecommunication Service. According to program rules, services ordered on the Form 471 must have been posted on an establishing Form 470 in order to comply with the competitive bidding requirement.”

² The service in question, a wireless Wide Area Network (“WAN”) could have been approved for either category, had the originating Form 470 included both. The proposed wireless WAN is an eligible service under both categories, and the service provider in question is an Eligible Telecommunications Provider, authorized to provide service as a Telecommunications Service or as an Internet Access service.

³ *In the matter of Request for Review by Shawano-Gresham School District Shawano, Wisconsin, Schools and Libraries Universal Service Support Mechanism*, Order, SLD File No. SLD-292913, CC Docket No. 02-6, DA 04-308, at par. 5 (Rel. Feb. 6, 2004).

⁴ See attached Letter of Appeal, July 15, 2004, p. 1 (“We changed the designation in our Form 471 from “Telecommunications Service” to “Internet Access” solely because the [SLD] Program Integrity Audit (PIA) representative urged us to. ... For this reason, we respectfully request that the SLD change the “Services Ordered” entry back to “Telecommunications Service” as we originally requested ...”

⁵ 47 U.S.C. 254, Communications Act of 1934, as amended, Sec. 254(b)(6).

CONCLUSION

White Settlement Independent School District respectfully requests the Federal Communications Commission reverse the Universal Service Administrative Company decision to deny funding and render a decision that funding is granted and such other relief, at law and in equity to which White Settlement Independent School District may be justly entitled.

Respectfully submitted,

White Settlement Independent School District



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December 10, 2004

Attachments: White Settlement Letter of Appeal – July 15, 2004
SLD Administrator's Decision on Appeal – October 12, 2004
White Settlement Form 471
White Settlement Form 470